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Attorneys for Defendants

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

In the Matter of the Estate of SANDRA
SURPRISE,

Deceased,

THE ESTATE OF SANDRA SURPRISE
by and through RICHARD SURPRISE,
Personal Representative; individually, and
on behalf of SANDRA SURPRISE'S
statutory beneficiaries, Anthony Surprise,
Michael Surprise, Daniel Surprise, and
Kristen DiPasqualucci,

Plaintiffs,

vs.

FSQ, INC., a foreign corporation, f/k/a
FIVE STAR QUALITY CARE, INC.,
d/b/a THE FORUM AT DESERT
HARBOR, licensed as FS TENANT
POOL III TRUST, a foreign corporation;
FIVE STAR DESERT HARBOR, LLC, a
foreign limited liability company; FVE FM
FINANCING, INC., a foreign corporation;
JOHN DOES I-X Administrators of THE
FORUM AT DESERT HARBOR; JOHN
DOES XI-XX; JANE DOES I-X; BLACK
CORPORATIONS I-X; WHITE
PARTNERSHIPS I-X,

Defendants.

No.:

NOTICE OF REMOVAL

1 Pursuant to 28 U.S.C. §§ 1441(b) and 1332(a)(1), Defendants FSQ, INC., FS
2 Tenant Pool III Trust, Five Star Desert Harbor, LLC, and FVE FM Financing, Inc.,
3 (“Defendants”), by and through undersigned counsel, hereby remove the above-
4 captioned action from the Superior Court of the State of Arizona in and for the County
5 of Maricopa, in which it is currently pending, to the United States District Court for
6 the District of Arizona. Removal is proper for the following reasons:

7 1. The action was filed in the Superior Court of the State of Arizona in and
8 for the County of Maricopa on August 13, 2015.

9 **Diversity**

10 2. Defendants are informed and believe that Plaintiff and Personal
11 Representative Richard Surprise is a resident of Arizona. *See* Plaintiff’s Application
12 for Informal Appointment of Personal Representative at ¶ 4(a), attached as Exhibit “1.”

13 3. Defendants are informed and believe that Plaintiff Michael Anthony
14 Surprise is a resident of Arizona. *See* Plaintiff’s Application for Informal Appointment
15 of Personal Representative at ¶ 4(b), attached as Exhibit “1.”

16 4. Defendants are informed and believe that Plaintiff Kristen Dipasqualucci
17 is a resident of Arizona. *See* Plaintiff’s Application for Informal Appointment of
18 Personal Representative at ¶ 4(c), attached as Exhibit “1.”

19 5. Defendants are informed and believe that Plaintiff Daniel Jason Surprise
20 is a resident of Arizona. *See* Plaintiff’s Application for Informal Appointment of
21 Personal Representative at ¶ 4(d), attached as Exhibit “1.”

22 6. Defendant FSQ, Inc. is a Delaware corporation with its principal place of
23 business in Massachusetts.

24 7. Defendant FS Tenant Pool III Trust is a Maryland corporation with a
25 principal place of business in Massachusetts.

26 8. Defendant Five Star Desert Harbor, LLC is a limited liability corporation
and each of its members are citizens of Massachusetts.

1 9. Defendant FVE FM Financing, Inc. is a Maryland corporation with a
2 principal place of business in Massachusetts.

3 10. Originally, the state court action was filed in Maricopa County Superior
4 Court (No. PB 2014-001082).

5 **Amount in Controversy**

6 11. This Court has original jurisdiction over this action pursuant to 28 U.S.C.
7 § 1332(a)(1), and is properly removed to this Court pursuant to 28 U.S.C. § 1441(b)
8 because it is a civil action between citizens of different states and the matter in
9 controversy exceeds the sum of \$75,000.00, exclusive of interests and costs.

10 **Timeliness of Notice**

11 12. This notice is timely filed 28 U.S.C. §1441(b)(1) within thirty days after
12 the receipt of Plaintiffs' Complaint and/or service of summons. The Complaint in this
13 action was filed on August 13, 2015 (along with initial required pleadings), attached as
14 Exhibit "2" to this Notice.

15 13. The Defendants were served with the Summons and Complaint on
16 August 14, 2015, attached as Exhibit "3."

17 14. Written notification of the filing of this notice will be served on Plaintiffs
18 and filed with the Clerk of the Maricopa County, Arizona, Superior Court as required
19 by 28 U.S.C. § 1446(d). A true and correct copy of the Notice of Removed Action is
20 attached as Exhibit "4."

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1 WHEREFORE, Defendants respectfully request that the action now pending
2 against it in the Superior Court of the State of Arizona in and for the County of
3 Maricopa be removed to this Court and that further proceedings in this action be
4 conducted in this court as provided by law.

5 RESPECTFULLY SUBMITTED this 1ST day of September, 2015.

6 GUST ROSENFELD P.L.C.
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8 By/s/ Kelli K. Williams

9 Carol M. Romano

10 Kelli K. Williams

11 *Attorneys for Defendant Five Star*
12 *Tucson Forum, LLC*

13 ORIGINAL e-filed and copies
14 mailed September 1, 2015, to:

15 Gabriel Kory

16 Teri Rowe

17 MILLER WEBER KORY, LLP

18 506 East Portland Street

19 Phoenix, Arizona 85004

20 *Attorneys for Plaintiffs*
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By /s/ C. Roundtree